

HOUSE COMMITTEE ON FINANCIAL SERVICES

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AND CONSUMER CREDIT

SUBCOMMITTEE ON OVERSIGHT AND
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February 1, 2017

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The Honorable Ajit Pai
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Chairman Pai:

I am writing on an issue of local importance to my constituents in Montgomery County, Maryland. The county has received nearly 300 applications to build small cell antennas on the county's right-of-ways through various communities. These applications reflect the increasing demand for wireless services locally and the beginning of the facilitation of next generation wireless technologies across the U.S.

Over the past few months, I have heard concerns from my constituents across Montgomery County about the possible aesthetic impact and health risks associated with these installations. In working with the county on addressing these constituent concerns, I am requesting guidance on local zoning flexibility where aesthetic concerns are raised and am asking the Federal Communications Commission (FCC) to complete its study on radio frequency (RF) health risks associated with high levels of exposure.

Local Municipalities' Zoning Flexibility

Considering the quantity and proximity to residences of these small cell antenna applications, I am inquiring as to whether federal law would support denial of these small cell antenna applications based on aesthetic concerns. The Telecommunications Act of 1996 requires that any state or local government or municipality thereof that denies a request to place, construct or modify a personal wireless service facility must do so in writing and be supported by substantial evidence. Case law indicates that the county has flexibility to deny requests in this way based on aesthetic concerns. As you know, aesthetic concerns are often linked to possible decreased home values, which is of concern to my constituents. That is why I am seeking clarification on the extent of flexibility local municipalities have in negotiations with these companies to deny applications for aesthetic concerns.

Complete The Study On RF Health Impacts

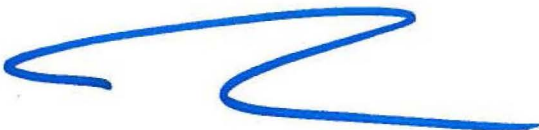
Additionally, I am writing to ask the FCC to complete its rulemaking process related to RF radiation exposure. I am aware that the Commission adopted a *Report and Order Further Notice of Proposed Rulemaking and Notice of Inquiry* on March 29, 2013 to develop a better understanding of possible RF radiation issues. However, the Commission has yet to complete this important process. While proposed small cell antennas appear to operate in a frequency with little or no health effects, possible RF exposure is of large concern to my constituents who will be living and working in close proximity to these small cell antennas; such concerns of RF could be properly assuaged with the conclusion of study. I understand these issues are complex and involve cooperation with several other agencies including the Environmental Protection Agency (EPA), the Food and Drug Administration (FDA) and the Occupational Safety and Health Administration (OSHA), but I believe addressing these safety concerns is important for constituents to be comfortable with the installation and implementation of these new technologies.

Finally, I believe it would be beneficial to your overall effort to advance wireless technology if the FCC took action to educate the public, particularly those in areas likely to be first affected, of the benefits of such technology and the rights of impacted communities. Such dialogue will be helpful in bridging concerns and advancing infrastructure desired by communities.

I urge the Commission to take these concerns into consideration and provide guidance on these issues as I believe they will continue to be of concern to states, local governments and municipalities and our constituents as the implementation of next generation wireless technologies moves forward.

Thank you for your consideration and we look forward to your response.

Sincerely,



John K. Delaney
Member of Congress



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

May 8, 2017

The Honorable John Delaney
U.S. House of Representatives
1632 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Delaney:

Thank you for your letter concerning the placement of small cell antennas in Montgomery County. To meet the extraordinary growth in demand that will be placed on mobile networks by 5G technologies and services, providers will need to densify their networks. While facilities used for these networks are smaller and less obtrusive than traditional cell towers and antennas, they must be deployed in many more locations to function effectively. As you note, in places such as Montgomery County, many wireless providers are already seeking to deploy small cells and distributed antenna systems to meet localized needs for coverage and increased capacity.

The Commission recognizes that localities play an important role in preserving local interests such as aesthetics and structural safety. The Commission also has a statutory mandate to facilitate the deployment of network facilities needed to deliver more robust wireless services to consumers. As such, the FCC continues to work with industry and local governments to develop and encourage sensible siting regulation practices. For example, in late January, I announced the creation of the Broadband Deployment Advisory Committee (BDAC) to explore ways to accelerate deployment of high-speed Internet access nationwide and to close the digital divide. Among other matters, the BDAC will be directed to draft for the Commission's consideration state and local model codes covering local franchising, zoning, permitting, and rights-of way regulations. Over 380 individuals applied to serve on the BDAC, the members of the Committee were announced on April 6, and the Committee held its first meeting on April 21.

In regards to your comments on radiofrequency (RF) exposure, the Institute for Electrical and Electronics Engineers, Inc. (IEEE), and the National Council on Radiation Protection and Measurements (NCRP) have issued recommendations for human exposure to RF fields. Both the NCRP and IEEE guidelines were developed by scientists and engineers with extensive experience and knowledge in the area of RF biological effects and related issues. These individuals spent a considerable amount of time evaluating published scientific studies, including studies of the health status of exposed persons, relevant to establishing safe levels for human exposure to RF energy.

The FCC's guidelines for human exposure to RF electromagnetic fields are based on recommendations from the U.S. Environmental Protection Agency (EPA), the Food and Drug Administration (FDA), and other federal health and safety agencies. These FCC guidelines were derived from exposure limits recommended by the NCRP and IEEE to ensure that FCC-regulated transmitters do not expose the public or workers to levels of RF energy that are considered by expert organizations to be potentially harmful.

Please know that the FCC is continually monitoring the issue of RF exposure and related health and safety concerns, both in the general terms of the continuing propriety of its regulations, and in

individual cases where substantive concerns are raised. You may find additional information on the Commission's web site at <http://www.fcc.gov/oet/rfsafety>.

I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,

Ajit V. Pai

Ajit V. Pai

P.S. Congressman, I don't believe we've had the pleasure of meeting, but I hope that changes soon. In the meantime, I noticed that you're on the Board of Directors of the National Symphony Orchestra. Thanks for your work supporting the NSO! As a classically-trained violinist, I've come to treasure their performances and contributions to the arts.